DOCUMENT RESUME

ED 471 211 EC 309 315

AUTHOR	Howell, Kenneth W.; Wolford, Bruce I.
TITLE	Corrections and Juvenile Justice: Current Education Practice for Youth with Learning and Other Disabilities. Monograph Series on Education, Disability and Juvenile Justice.
INSTITUTION	American Institutes for Research, Washington, DC. Center for Effective Collaboration and Practice.; National Center on Education, Disability and Juvenile Justice, College Park, MD.
SPONS AGENCY	Special Education Programs (ED/OSERS), Washington, DC.; Office of Vocational and Adult Education (ED), Washington, DC. Office of Correctional Education.; Department of Justice, Washington, DC. Office of Juvenile Justice and Delinquency Prevention.
PUB DATE	2002-06-00
NOTE	33p.; Cover title reads, "Corrections and Juvenile Justice: Current Education Practice for Youth with Behavioral and Cognitive Disabilities." Support also provided by the National Institute for Literacy, the National Association of Parks and Recreation, and the U.S. Department of Education's Office of Special Education and Rehabilitative Services. For other monographs in this series, see EC 309 312-318.
CONTRACT	H237T60005;RC96107002;H324J990003
AVAILABLE FROM	EDJJ Monographs, College of Education - EDSP, University of Maryland, 1308 Benjamin Building, College Park, MD 20742-1161 (Individual copies, $3.50; Complete set of 7 monographs, $24). Tel: 301-405-6462; Fax: 301-314-5757; e-mail: edjj@umail.umd.edu; Web site: http://www.edjj.org. For full text: http://cecp.air.org/juvenilejustice/juvenile_justice.htm.
PUB TYPE	Information Analyses (070) -- Reports - Descriptive (141)
EDRS PRICE	EDRS Price MF01/PC02 Plus Postage.
DESCRIPTORS	*Behavior Disorders; Compliance (Legal); *Correctional Education; Delivery Systems; *Disabilities; *Educational Practices; Elementary Secondary Education; Individualized Education Programs; *Juvenile Justice; Learning Disabilities; Mental Retardation; Needs Assessment; Placement; *Special Education
IDENTIFIERS	*Incarcerated Youth

ABSTRACT

This monograph, one of a series on youth with disabilities and the juvenile justice system, focuses on the educational services provided to youth with behavioral and cognitive disabilities placed in the juvenile justice system. It reports on a review of correctional system monitoring reports, materials from enforcement actions taken against correctional agencies, and interviews with correctional educators, administrators, and security staff. The review found that there was a frequent lack of understanding by correctional system practitioners of appropriate educational materials and supports for children and youth with disabilities. Evidence of this finding were the many violations found in Individual Education Programs prepared for youth placed in correctional settings. Specific recommendations for improving educational services to this population stress better

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assessment, instructional, and curricular practices. The report also identifies five major barriers to providing effective special education services in correctional settings. Improvements in system leadership and financial support at the state level are emphasized as necessary for overcoming existing barriers. Appended are a glossary of terms and a checklist of best practices. (Contains 22 references.) (DB)

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ED 471 211

CORRECTIONS AND JUVENILI JUSTICE:

CURRENT EDUCATION PRACTICE FOR YOUTH WITH BEHAVIORAL AND COGNITIVE DISABILITIES

By

Ken Howell & Bruce Wolford

EC 309315

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Corrections and Juvenile Justice, Current Education Practice for Youth with Learning and Other Disabilities

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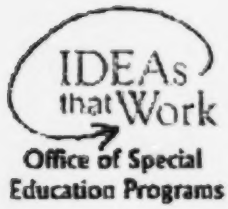
June 2002

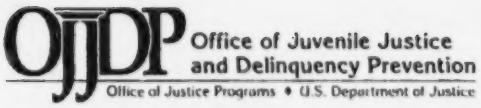
We would like to thank the people of the following organizations and agencies for their support with this project:

National Institute for Literacy
National Association of Parks and Recreation

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Office of Special Education Programs
Office of Correctional Education
Office of Vocational and Adult Education

U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevent





This report was supported in whole or in part by the U. S. Department of Education, Office of Special Education Programs, (Grant No. H237T60005); the Office of Correctional Education, Office of Vocational and Adult Education (Contract No. RC96107002); and the U.S. Department of Education, Office of Special Education and the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (Grant No. H324J990003). However, the opinions expressed herein are those of the authors and do not necessarily reflect the policy or position of the U. S. Department of Education, Office of Special Education Programs, or Office of Vocational and Adult Education nor the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, and no official endorsement by the Departments should be inferred. *Note: There are no copyright restrictions on this document: however, please credit the source and support of federal funds when copying all or part of this material. This report is also available on the web for printing at:* http://www.air.org/cecp *and http://www.edjj.org.*

Introduction[1]

The Nation's twenty-five year history of expansion of adult prison populations through the lengthening of sentences and reduction of early release options has recently found favor in the juvenile justice systems in many jurisdictions. As youthful populations in both adult corrections and juvenile justice agencies have increased (National Institute of Justice, 1998), the attention of the courts and youth advocates have been directed toward providing educational services for juveniles in residential placements. There have been numerous consent decrees[2] and other court interventions related to the education of youthful offenders in many states and jurisdictions. Nearly all of these judicial interventions address issues related to the provision of special education services to incarcerated youth with disabilities. There also have been numerous studies documenting the disproportionately high percentage of youth with disabilities in correctional placements. A recent Kentucky Educational Collaborative for State Agency Children (KECSAC) study reported that upwards of 60% and an average of 43% of State Agency Children in the Commonwealth were identified as exceptional and had an active Individual Education Program (IEP) as required by the Individuals with Disabilities Education Act (IDEA) (KECSAC, 1998).

The National Study to Determine Special Education Services for Juvenile Offenders, conducted by the Center for Effective Collaboration and Practice at the American Institutes for Research in collaboration with the National Center on Education, Disability and Juvenile Justice at the University of Maryland reveals the educational plight of children and youth with disabilities in juvenile detention, and state juvenile and adult correctional facilities (Quinn, Rutherford, Wolford, Leone, Nelson, Poirier, & Osher, in progress). This survey was sent out to the entire population (547) of secure state, local, and county Juvenile Detention facilities; the entire population (91) of corrections systems, and the entire population (51) of State Departments of Education, Office of Special Education in the United States. The results indicate that 45.2% of the total number of youth detained or incarcerated was reported to have a disability. This finding is particularly interesting given that the U.S. Department of Education figures show that for the 1998-1999 school year (the most recent data available) the percentage of children and youth in the general population with disabilities was only 8.82% (2000).

As authors, the first problem we encountered in our writing was that, while there is considerable literature on correctional/juvenile justice education and on effective educational practices for youth with disabilities, there is little on effective practices for youth with disabilities within correctional/juvenile justice settings. This is troublesome because the overlap, or intersection, of the two topics is something quite different than either in isolation. The second problem we encountered was that much of the literature in both of these primary categories is more opinion than research (Lloyd, Forness, & Kavale, 1998). Therefore, we had to look beyond the published literature to find information on the intersection of correctional and special education. One of the places we looked was at the various monitoring reports and replies to those reports,

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[1] This monograph, by focusing on special education, will include terminology that may be unfamiliar to some readers. As a result we have included a glossary at the end of the monograph.

[2] The glossary will explain terms that are underlined in the text.

produced as a consequence of judicial interventions. Specifically, we reviewed materials from five actions taken against states, or particular correctional systems, to insure enforcement of legal mandates relative to special education. In addition, we have interviewed staff in correctional settings, and spoken with hundreds of correctional educators, administrators, and security staff. These conversations have provided us with extensive information. However, due to the sensitivity of the topic, and in some cases legal and/or employment restrictions, these resources will not be identified in this monograph.

Special Education Practice

Special Education is defined in various ways. The Federal definition (that applies in all states) can be found in the glossary of this monograph. To many it is defined as *the education of disabled students*. To others it is the *application of exceptional teaching techniques*. Zigmond (1997) identified the following attributes of special education by saying that "...special education is, first and foremost, instruction focused on individual need. It is carefully planned. It is intensive, urgent, relentless, and goal directed. It is empirically supported practice, drawn from research" (pp. 384-385).

As one examines current correctional special education practice, it quickly becomes clear that much of it does not fit Zigmond's definition. For example, some frequently used techniques do not have much in the way of empirical support, while others, which are seldom employed, are strongly validated. It also becomes apparent that Federal and state regulations provide little guidance about which techniques are required; they give us a process for deciding on techniques, but rarely specify the use of specific methods. Commonly used techniques may or may not have empirical support, a basis in policy, or a foundation in logic. This leaves us with four types of instructional practice: **Mandated** (what is required by law and regulation); **Common** (what is usually done); **Best** (what has been shown to work); and **Promising** (what makes sense to the trained mind, but might lack sufficient data at this time to be labeled research-based).

Mandated Practice

In this monograph we will focus on how the mandates should be translated into practice. But before we do that, it is important to frame practice within the context of the mandates.

While legal scholars may disagree with this typology, we will work as if there are three kinds of relevant mandates, *legislative, judicial, and administrative*. Each of the types may be found at the Federal, state, and local levels. The wording, and substance, of the statutes and regulations can and often does vary by level. Because this publication is being prepared for a national audience there will be little coverage of the separate laws and policies found in states and/or school districts. However, it is important to remember that Federal law supercedes state law and allows states to do more than the Federal law requires, but not less.

Legislative law comes through the legislature and is what we commonly think of as "the law." However, the *judicial* branch interprets law and, while it does not produce legislation, it may nullify it, modify it, or give it new meaning. *Administrative* law comes in the form of the "Rules and Regulations" that most of us try to follow day to day. In terms of status, it is the lowest kind of law. It is written by individuals, often non-educators and almost certainly non-correctional/juvenile justice educators, charged with the frustrating duty of trying to translate legislative and judicial actions into everyday practice. While it is true that administrative law is less potent than legislative or judicial law, it is probably the most influential in everyday practice. This type of law is used by practitioners more often than the others. However, while local regulations are functional, it is necessary to understand that a local school district's policy guidelines will have almost no legal standing unless they are drawn directly and not selectively from Federal legislation and judicial interpretations.

Underlying the laws, decisions, and regulations is something called "intent." The intent of a law is the reason it was written. Intent is important because it is almost always meant to change

common practice. In fact, if the intent of education law were already common practice, the law would not have needed to be passed. To explain that another way, the image of common practice is not the image society desires, so law was passed to change it. PL 105-17, the 1997 Amendments to the Individuals with Disabilities Education Act (IDEA), include the following findings related to intent. (These are quotes from Part A section 602 (c) (d)). Law (IDEA) applies to all children with a disability. That includes those who are incarcerated in state and local facilities.

(c) FINDINGS - The Congress finds the following:

(1) Disability is a natural part of the human experience and *in no way diminishes the right of individuals to participate in or contribute to society.* (emphasis added). Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

(4) However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

(6) While states, local educational agencies, and educational service agencies are responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a role in assisting State and local efforts to educate children with disabilities in order *to improve results for such children and to ensure equal protection of the law.* (emphasis added)

Based on the findings the purpose, or intent, of the law is spelled out as follows (Part A Sec. 601(d)).

(d) PURPOSES- The purposes of this title are-

(1) (A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living.

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities.

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

In order to actually accomplish this purpose, IDEA spells out specific processes for defining appropriate educational practice. And, while correctional/juvenile justice educators often complain that the law has a general education emphasis (which it does) the intent of the law clearly applies everywhere. Below are some examples of the wording as it pertains to specific educational functions.

Evaluation

SEC.614. EVALUATION, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

(a) EVALUATIONS AND REEVALUATIONS-

(1) INITIAL EVALUATIONS-

(A) IN GENERAL - A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation, in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.

(B) PROCEDURES - Such initial evaluation shall consist of procedures -

(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and
(ii) to determine the educational needs of such child

Best practices have shown that before it can be decided that a student is entitled to special education service, an evaluation must take place. This evaluation should supply the information required to decide if-

(i) the student has a disability; and,
(ii) the student needs special education. Both of these decisions must be made for the student to be considered eligible for special education. A student with a disability who is progressing well does not need help and may, therefore, be ineligible.

One of the difficult things to understand about the IDEA is that it was not written to provide help to everyone who is in need of it. It was written to get help to those who need it *and* are entitled to it (because they have a disability). Here are some more evaluation requirements:

(b) EVALUATION PROCEDURES

(2) CONDUCT OF EVALUATION – In conducting the evaluation, the local educational agency shall—

(A) use a variety of assessment tools and strategies to gather relevant functional and development information, *including information provided by the parent,* (emphasis added) that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;
(B) *not use any single procedure as the sole criterion* (emphasis added) for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and
(C) *use technically sound instruments* (emphasis added) that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

This provision contains several requirements. The first, mandating the use of a variety of tools and strategies, was probably included because of IDEA's overriding emphasis on individuals. The provision supports the use of an individualized assessment plan based on the student's apparent nature, not a standard assessment battery to be given to all students.

The wording "variety of...strategies..." appears to imply a preference for data derived from multiple sources. The "R.I.O.T." model (Heartland Education Agency, 1998), in spite of its acronym's unfortunate connotations for corrections, is a good one. It stands for:

R= Review of records, history, products
I = Interview of students, teachers, parents, parole officers
0 = Observe the student, the education setting, the living unit
T = Test of abilities and skills

Use of the RIOT process may provide a richer sample of information. It will also help to assure that the IEP team does not violate the prohibition on using a single procedure. Here are some other stipulations from IDEA.

(3) ADDITIONAL REQUIREMENTS- Each local educational agency shall ensure that -
(A) tests and other evaluation materials used to access a child under this section -
(i) are selected and administered so as *not to be discriminatory on a racial or cultural basis* (emphasis added); and
(ii) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and
(B) any standardized tests that are given to the child -
(i) have been *validated for the specific purpose for which they are used* (emphasis added);
(ii) are administered by trained and knowledgeable personnel; and
(iii)are administered in accordance with any instructions provided by the producer of such tests;
(C) the child is assessed in all areas of suspected disability; and
(D) *assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.* (emphasis added)

D. REVIEW OF EXISTING EVALUATION DATA- As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall –

(A) *review existing evaluation data* (emphasis added) on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observation; and
(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

i. Whether the child has a particular category of disability as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability.
ii. The present levels of performance and educational needs of the child;
iii. Whether the child needs special education related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
iv. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum.

In addition to the wording above, considerable attention is given in the Federal rules and regulations to the procedural aspects of evaluation. These include things like time lines and mandates for parental participation. Without going through the requirements word by word we will now try to point out some instances in which, based on our experience, common practice within many correctional/juvenile justice settings fails to match mandated practice.

Major areas of non-compliance in evaluation

Under 614 (a) (1)(B)(i)(ii) the law clearly supplies two purposes for evaluation: to determine if a child is disabled; and to determine the child's needs. This idea, that there are different reasons to evaluate, is critical.

While there are many ideas embedded in these additional requirements, (B)(i) deserves particular attention. It is common to discuss the "validity of assessments." However, things can be valid for one purpose but not for another. Because we evaluate to collect information that will inform decision-making, it is necessary to think about the decisions we must make to understand the mandates (and how we might violate them).

There are four common reasons to conduct evaluations:

- *screen for students needing help;*
- *determine entitlement, which establishes that the student is eligible for special education;*
- *inform IEP development by collecting information about what the student needs to be taught and that instruction should occur; and*
- *to monitor student progress.*

There is considerable wording within the regulations related to the four functions of evaluation. This wording makes it clear that assessment procedures should be tailored to the *purpose* of the evaluation, and the *needs* of the student. They should also be tied to the referral.

Unfortunately, it is frequently the case that evaluation within correctional/juvenile justice settings is composed of a common battery of tests given to all students. The assessment also appears to be driven by a concern with eligibility (entitlement) determination. Therefore, the overriding focus is on who to let in or who to remove, when it should be on getting information that will help teachers teach. Additionally, we have found confusion among staff regarding the kinds of instruments that might be considered valid for each purpose. For example, we read a report written for a student who was in special education and had problems with articulation. Yet, in spite of the fact that he had an IEP and was scheduled to get language services, there was nothing in his education file but a Test of Adult Basic Education (TABE) score. The TABE does not even sample articulation.

It is common to find tests used which have not been validated for specific purposes. Probably the best example is the TABE. Objectives on IEPs have even been found which specify the TABE, or Woodcock-Johnson, for IEP monitoring when these instruments cannot be validly re-administered on the schedules imposed by short-term objectives (CEC Today, 1998).

Individual Education Programs (IEPs)

We believe there are two main parts to an effective IEP: the process of development, and the resulting plan. Here are some relevant selections from IDEA. Again, we have inserted notes highlighting our opinions.

(2) REQUIREMENT THAT PROGRAM BE IN EFFECT-

(A) IN GENERAL- At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

This doesn't mean that all IEPs need to be developed at the first of the year. In order to ensure that a student is receiving their full services, an IEP must be in effect when the program starts.

(d) INDIVIDUALIZED EDUCATION PROGRAMS--

(i) DEFINITIONS-As used in this title:

(A) INDIVIDUALIZED EDUCATION PROGRAM-The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes -

(i) a statement of the child's present levels of educational performance, including--

(I) how the child's disability affects the *child's involvement and progress in the general curriculum* (emphasis added).

While the student may work on whatever s/he needs – the student must be monitored within the general education curriculum to see if the services are catching the student up to the level of non-disabled peers.

(ii) a statement *of measurable annual goals including benchmarks or short-term objectives* (emphasis added) to -

The objectives and goals must be written in measurable terms. Scores on standardized tests often lack the alignment (with the objectives) to satisfy this requirement.

(I) meeting the child's needs that result from the child's disability to enable the child *to be involved in and progress in the general curriculum,* (emphasis added) and
(II) meeting each of the child's other educational needs that result from the child's disability;

(iii) a statement of the *special education and related services and supplementary aids* (emphasis added) and services to be provided to the child, or on behalf of the child, and a *statement of the program modifications or supports for school personnel* (emphasis added) that will be provided for the child–

The IEP must list objectives and goals. It must also say what specifically designed instruction will be used to take the student to those goals.

(I) to advance appropriately toward attaining the annual goals;
(II) *to be involved and progress in the general curriculum* (emphasis added) in accordance with clause (I) and to participate in extracurricular and other nonacademic activities; and
(III) to be educated and participate with other children with disabilities and *nondisabled children* (emphasis added) in the activities described in this paragraph;

(vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications,

(vii) (1) beginning at age 14, and updated annually, a statement of the *transition service needs* (emphasis added) of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

Transition services should be of particular importance to incarcerated youth. Yet, in our visits to correctional facilities, we often find that this section of IDEA is ignored in favor of basic skill instruction. If both are needed, both must be provided. However, the basic skill emphasis often seems to be the default because adequate transition evaluation and intervention is not available.

(III) beginning at age 14 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, *including when appropriate, a statement of the interagency responsibilities or any needed linkages* (emphasis added); and

(viii) a statement of -

(I) *how the child's progress* toward the annual goals described in clause (ii) will *be measured;* (emphasis added); and
(II) *how the child's parents will be regularly informed* (by such means as periodic report cards), *at least as often as parents are informed of their nondisabled children's progress* (emphasis added) of -

(aa) their child's progress toward the annual goals described in clause (ii); and
(bb) *the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year* (emphasis added).

These quotes (which do *not* include the entire wording in the parts sampled) speak to the content of the IEP. But, if the IEP is not developed through the correct process, then it is not "in effect," which means there is no special education taking place. What follows is process wording from part 614:
(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM - The term "individualized education program team" or "IEP Team" means *a group of individuals composed of* - (emphasis added)

(i) the parents of a child with a disability;
(ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
(iii) at least one special education teacher, or where appropriate, at least one special education provider of such child;
(iv) a representative of the local educational agency who –
  (I) is qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
  (II) is knowledgeable about the general curriculum; and
  (III) is knowledgeable about the availability of resources of the local educational agency;
(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);
(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
(vii) when appropriate, the child with a disability.

Here are examples of ineffective IEPs we found. These violations were all discovered in IEPs that were developed in correctional/juvenile justice settings. These are grouped into three categories but the order within each category is random.

Evaluation

- Often IEPs specify a one-year schedule for meeting **short-term** objectives even though some of the objectives need to be met first in order for others to be taught.
- Objectives often are not aligned with evaluation and/or do not reflect the emphasis indicated within evaluation results. For example, one IEP noted areas of significant weakness (e.g., following oral directions) for which **no** objectives were written while others required the student to work on skills which the evaluation indicated were well above the student's current level of performance.
- Progress towards goals, and towards mastery of the general curriculum, was reported infrequently (only reported during annual review). The law now requires that the progress of students in special education be reported as frequently as the progress of other students. This is a good idea because in most cases it is the student's lack of progress in the general curriculum that is used. (Therefore monitoring progress in the general curriculum is the only way to tell if the specialized program of instruction is working.)

IEP Process

- IEPs often seemed written to match the student's label and not educational needs. For example, a student who was found to be disabled in speech and language, showed major academic needs (particularly in math) which were not addressed on the IEP (i.e., no objectives). This is incorrect because a student who is found to be eligible, in any category of disability, *is entitled to services in **all areas** of need.*
- Regular education teachers were not present at IEP meetings (and some regular education teachers indicated that they did not receive the consultation services associated with a student). Section 300.344(a)(2) of IDEA states that the IEP team must include "At least one regular education teacher of the child (if that child is, or may be, participating in the regular education environment). Excluding the general education teacher is not only a violation of IDEA, but it will have the effect of sabotaging efforts to increase participation in general education classes.
- At an IEP meeting observed during a visit, the parent surrogate (sitting in for a parent) had not met the student prior to the meeting nor had she been allowed to review the students' files. There is no way such a surrogate could adequately provide a balance against institutional concerns.
- In many cases, parts of the IEP forms were filled with "boiler-plated" (generic) statements. This was especially true for the categories dealing with social skills, transition, and vocational training. This clearly illustrates a lack of individualization.
- IEPs often do not seem individualized. They often seemed written to match the preferred service delivery model (i.e., inclusion) and not the student's individual educational needs. For example, at a facility without a speech and language teacher speech and language objectives and/or services were never specified. The availability of services should not determine the content of an IEP.
- Frequently there is no relation between service time required on IEPs and student need. This is clear because the same times were being listed for all students regardless of their fundamental deficits. For example, there were two students scheduled for 30 minutes of reading instruction a day. One was two years behind in reading, while the other was six years behind.
- Communication between special education staff, mental health treatment personnel, and educational and institutional administrators, often seems very poor. This could be destructive (as important information about students can fail to cross the boundaries of the two areas). For example, students have been removed from psychotropic medications without notifying school staff that there could be a change in behavior.

IEP Document

- Objectives often specify limited and/or trivial levels of improvement. For example, in some cases the outcome level specified in the objectives was actually found to be *lower* than the level noted under present levels of performance.
- Objectives in the domain of social-emotional behavior, transition, vocational education, when present, were poorly written. For example, "will feel better about himself."
- Many IEPs do not adequately describe the instructional interventions which will be used to meet the objectives. For example, if the objective is to learn about "victim awareness," and the instructor uses a text which the student can not read, what accommodations are required?
- IEPs do not always contain appropriate objective criteria and schedules for determining whether short-term instructional objectives were being achieved. For example, objectives for critical skills often have low (80%) criteria; and objectives requiring little learning may allow months for instruction.
- Classroom discipline is not addressed, in the form of an intervention plan, in any of the IEPs reviewed.

Placement

The decision to provide a student a particular set of services should not be made until *after* the IEP has been developed. That is because selection of the services is to be based on the student's needs, not the availability of program options (Bateman, 1998). In correctional/juvenile justice settings it is apparent that many of the discussions in IEP meetings are driven by concerns about the need to uphold a preferred program placement policy (e.g., inclusion, 1:1 tutoring, consultation) not to meet the students' individual needs. Comments by staff suggest that statements pertaining to the amount and type of services have been written on IEPs to reflect what is already available rather than student need. This practice is the reverse of the mandated process and clearly documents that an individualized program, based on the student's needs, is not in place. Worse yet, this frequently seems to be the result of institutional policy —not professional judgment applied to individuals.

Few of the students who should get it are receiving comprehensive special education services in corrections settings. For example, the special education teachers often appear to be providing very little direct service (in the form of instruction and/or documented consultation) to students with disabilities. Students receiving their instruction within "inclusion" settings often do not appear to be the recipients of instructional modifications or support (other than those routinely provided) geared toward the *accommodation* of the specific needs identified on their IEP (instead accommodations seem geared toward completion of assignments given to the whole general education class).

A complete continuum of education services should be made available for special education students. This may include a self-contained classroom (containing students with extreme academic problems or students with extreme social skills deficits, as well as those who cannot tolerate changes in teachers, schedules, or peers. This continuum must also include pull-out (i.e., "resource") programs for students who only require limited instructional support. To the extent possible (as defined by the student's individual needs), access to general education classes *from which the student can benefit* must be provided. Related services such as mental health services, counseling, physical therapy, and speech therapy must also be provided.

One of the hardest things for some correction staff to accept is that, with few exceptions, special education services must be continued for students placed in a restricted setting (lock-up, detention, isolation, restricted phase) due to their behavior. In such cases services will need to be taken *to* the student. Efforts to approximate the services stipulated in the IEP must also be made. Of course, the easiest way to accommodate this sort of problem is to plan for it in advance. One way to do this is to include plans for handling security concerns in the IEP. Another is to develop plans at the institutional level. Institutional plans can include physical modifications to high security settings such as the installation of door slots at heights convenient for both teachers and students or individually enclosed (caged) desks, which allow teachers to work with a small group of students who are prevented from gaining physical contact with other students, or the instructor, can also be installed. In the future, one would hope, such modifications will be planned and built into facilities as they are constructed.

Common Practices

Common practices are what one most frequently finds in classes, IEP meetings, and student files. Some caution must be taken here as the vision of common practice available to the authors is biased. In large part, it is derived from observations and reviews carried out in settings that were being monitored because of failures in practice. Therefore, it is difficult to argue that what follows is a complete picture of common nation-wide corrections/juvenile justice special education practice. Having made that provision, it is also probably a good idea to note that common practice may really represent "worst" practice. If this characterization doesn't apply to the setting in which you work, try not to take it personally. While we believe in qualifying our comments, we should also point out that the kinds of practice (common, mandated, best, and promising) are interactive. So it is often hard to discuss one without mentioning (or remembering that there has been impact from) the others. For

example, the content of a student's IEP (a mandated document) may reflect on classroom practice. Common, mandated, and best practices all exist in correctional systems, schools, and classrooms.

Common Instructional Practices. Instructional time is not well used in many special education classes in correctional/juvenile justice settings (from this point on "classes" refers to special or related services provided in correctional/juvenile justice settings). In many cases, this is not because students are refusing to work, it is because they have been given nothing to do. In others, the primary medium of instruction is independent seatwork, often on identical tasks, preceded by little if any direct explanation and demonstration by teachers. Frequently, support is only given when students ask for it. Too often, individualized education becomes isolated education. This is unacceptable as learning research on students with disabilities clearly indicates that the students are often inaccurate at monitoring their own efforts.

When students do ask for help from a teacher, the request often has more to do with their learned classroom interaction style than with their need for help. Another problem with the format we are describing is that it is often material bound (whether the materials are in workbook or on a computer). This means the content of the lessons, and their sequence, is determined completely by the instructional materials used (not the IEP). This is one of the least effective modes of instruction known. The image one comes away with from these classes is one of inactivity, boredom (for students and teachers), limited emphasis on learning, and little true individualization. Some of these problems may have their foundation in large class size, inconsistent scheduling, short-term stay, limited material, inadequate numbers of staff, and/or insufficiently skilled staff. They may also result from the inadequate assessments and IEPs.

Common Evaluation Practices. If the purpose of an evaluation is to guide instruction, assessment procedures must be employed which reflect what teachers teach and that are sensitive to instruction. This is often referred to as "alignment." Once again, the tests utilized in many correctional/juvenile justice education settings, while commonly used to inform program eligibility decisions, are not sufficiently aligned with curriculum to inform the selection of objectives. The pivotal element of the IEP (or any instructional program) is the inclusion of specific short-term instruction objectives that are individualized and measurable. Objectives of this kind are necessary before classroom explanations, questions, and activities can be aligned with the student's needs.

Teachers should deliver instruction that specifically addresses short-term objectives and performance standards. Furthermore, teachers should systematically monitor progress toward mastery of these objectives and standards. They must document mastery, and add new objectives and standards, in the appropriate sequence, according to student needs. This can be accomplished by assuring that a functional curriculum exists, and that there is alignment of assessment instruments with that curriculum.

The use of correct assessment procedures is not the only prerequisite for alignment. Instruction, which focuses on the objectives, is also needed. Direct support and supervision of classroom teachers should also be provided. All teachers should be observed in their classrooms by supervisory staff, for the purposes of: a) ensuring that appropriate and effective educational services are being delivered; and b) providing consultative assistance regarding the delivery of instruction, classroom behavior management, and educational decision-making for individual pupils. Unfortunately, there is little indication that any of these activities are commonly occurring.

Time. In the section on best practices we will identify techniques which have considerable research support. Independent seatwork, during which a student spends time in workbooks or on worksheets (even if they *are* aligned with student needs), is not best practice. Yet, once again, that was the most frequent mode of instruction used in special education services observed in our experiences in correctional settings. If this problem is labeled "time poorly spent," then the second major problem must be "time missed."

The ratio of time required on IEPs to actual time received in many classrooms is too low. For example, one monitoring report found that only 37% of all service was being provided with 60% of students getting less than half of the services called for on their IEPs. Sometimes students who arrive at the institution already known to be eligible for special education services spend many months waiting for these services to begin. Those delays may be partially due to procedures at the settings that send students. However, they also are often the result of procedures (such as mandatory weeks of housing on "orientation units" where education is not provided).

Frequently instruction in corrections does not take place because students are not brought to school, classes are canceled, or available class time is scheduled for non-instructional activities. One special education teacher estimated that 75% of her lost instructional time is due to wards being held out of school by security staff on the living units. In one report we reviewed it was noted that students were held out of school all day if, during the morning line up, the student had dress violations such as rubber bands in his hair or untied shoes. These sorts of "punishments" usually reflect the opinion that education is a "privilege." It isn't.

Mandated procedures for suspension, and multiple suspensions, often are not followed. Also, it is hard to tell if explanations such as "returned to cottage" differ from "suspension," or if a student might be "counseled in the cottage" for the same behavior leading to suspension. It appears that there is a correlation between the size of the institution and the frequency of time away from instruction: the larger the institutional population, the greater the time away from instruction.

Best Practices

Given the finding of various monitoring reports, studies like Leone (1994), and the mandates discussed above, it is clear that mandated special education practices have not had as positive an influence within correctional/juvenile justice settings as they have had in public schools. Appendix B provides a checklist that may prove helpful for judging the quality of programs. In IDEA, Congress had a few things to say about special education practices. Here are some selections from part A general provisions 601 (5):

(3) over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by -

(A) *having high expectations* (emphasis added) for such children and ensuring their access in the general curriculum to the maximum extent possible.

We believe this means no objectives with criteria set at 80%.

(B) Strengthening the role of parents and *ensuring that families of such children have meaningful opportunities* (emphasis added) to participate in the education of their children at school and at home.

If parents are unable to attend IEP meetings, arrange conference calls so parents can participate in IEPs.

(C) Coordinating this Act with other local educational service agencies, State and Federal school improvement efforts in order to ensure that such children benefit from such efforts and that *special education can become a service for such children rather than a place where they are sent* (emphasis added).

(D) Providing appropriate special education and related services and aids and *supports in the regular classroom* (emphasis added) to such children, whenever appropriate.

(E) *Supporting high-quality, intensive professional development* (emphasis added) for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them -

(i) to meet developmental goals and, to the maximum extent possible, those *challenging expectations that have been established for all children* (emphasis added), and
(ii) to be prepared *to lead productive independent, adult lives* (emphasis added) to the maximum extent possible.

Students with disabilities are the responsibility of *all* staff, not just special educators.

(F) providing incentives for whole-school approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs; and
(G) focusing *resources on teaching and learning while reducing paperwork* (emphasis added) and requirements that do not assist in improving educational results.

And here are some comments about failures of the system.

(8) (A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(C) Poor African-American children are 2-3 times more likely to be identified by their teacher as having mental retardation than their white counterparts.

(D) Although African-Americans represent 16 percent of elementary and secondary enrollments, they constitute 21 percent of total enrollments in special education.

(E) The drop-out rate is 68 percent higher for minorities than for whites.

(F) More than 50 percent of minority students in large cities drop out of school.

Beyond these findings there is a body of considerably more specific information about best practices. For example, Lloyd et al. (1998) examined research on special education interventions and were able to rank commonly used methods from most to least effective.

Lists of the non-effective and effective methods, as drawn from comparisons of 17 methods, are presented in Table 1. Like all studies of this type, the Lloyd et al. (1998) findings are limited by the weaknesses of the original studies. However, the findings are consistent with other current research. One of the most remarkable findings particularly related to this monograph is that there are effective methods that are not commonly used and ineffective ones that are.

Table 1: Effective Methods (Lloyd, Forness & Kavale, 1998)

Not Very Effective	Use 'Em!
• Perceptual training	• Early intervention

• Feingold diet • Moduality-based instruction • Social skills training • Psychotopic drugs • Class size • Psychololinguistic training	• Formative (curriculum-based) evaluation • Behavior modification • Reading comprehension instruction • Mnemonic training

Not effective. Before we move on, look at the "not very effective" list in Table 1. Some of these methods will come up later as we discuss the barriers to best practice because they are common practice in correctional/juvenile justice systems. For example, many school psychologists and special education teachers in corrections programs talk extensively about the perceptual and cognitive *modality preferences* as well as the psycholinguistic skills of students. Additionally, the use of psychotropic medication, even excluding the stimulant medications associated with attention deficit disorders, is very common.

At the same time, the study seems to call into question the use of social skills training and the impact of class size. There are several possible explanations for these findings which do seem at odds with some other research as well as the logic that supports *promising practices.*

First, note that some of the most effective practices appear within social skills training programs. For example, cognitive behavior modification (see Lloyd et al., 1998). In fact most social skills training programs have been constructed of elements which, in isolation, have proven records of success. Still, it does not follow that these methods, when bound together, will always be successful. One should not even expect them to be successful if they are implemented in the same "basal" fashion as many programs within correctional education. That is to say, in a format where all students, regardless of need, are working on the same skill through the same instructional approach at the same time. Yet, once again, that is the approach we have observed most often in corrections classrooms, where social skills training is used.

We think that social skills training, while not validated in the Lloyd et al. (1998) study, should probably be moved out of the ineffective category and into "promising practices." These are practices that look good even though the data are not yet in. Social skills' training is so logically applicable to the corrections population it is hard to imagine not using it in some form although many published ("canned") programs seems at odds with the elements of good instruction. Therefore, our recommendation is that you select social skills programs with caution. If necessary, simply return to the elements of good instruction and focus on the social skills training elements (such as relaxation, problem solving, and attribution retraining) that enjoy independent validation. For a detailed discussion on the effectiveness of social skills instruction see: Forness and Kavale (1996); Gresham (1998); Mathur, Kavale, Quinn, Forness and Rutherford (1998); and, Quinn, Kavale, Mathur, Rutherford, and Forness (1999).

Methods. Beyond these concerns one problem with lists like the one in Table 2 is that they only provide labels for what are often complex and interactive methods. These labels (e.g., behavior modification, class size) may have remarkably different meanings to different educators, and be employed differently in different classrooms. It is possible to have direct reading comprehension instruction, cognitive behavior training, and mnemonic devices, all guided by curriculum-based/formative evaluation, occur in the context of good behavior modification. While such a program would be extremely powerful, that power would not necessarily equal the effects of all components added to each other. There may be salient characteristics (those that account for most achievement gains) that are shared by two or more of the programs. For example, formative/curriculum-based evaluation and direct instruction both presuppose the existence of a

clearly defined curriculum. However, a widely agreed upon and clearly defined curriculum for social skills has yet to evolve (Howell & Nolet, 2000).

Table 2 provides three other lists of best practice methods. As you will notice these overlap with each other and with the preferred techniques in Table 1. The Peacock Hill Working Group (1991) list focuses primarily on teaching students with emotional and/or behavioral needs. The Fisher, Schumaker, and Deshler (1995) list comes from a thorough description and review of each method. The King-Sears and Cummings (1996) article describes and discusses teacher's levels of comfort with, and familiarity with, each method. The techniques listed have been found to be effective with students with all types of disabilities. That is because disability labels do not describe instructionally homogeneous groups (which is why the law prohibits programming based on labels). There are effective reading methods, anger management methods, or pragmatics methods. But there are not effective Learning Disabilities methods or Mental Retardation methods. The secret is to remember that best practice requires us to consider the individual needs of each student. Still, we can try to point out some of the components which may account for the positive effects of the programs listed in Table 1. Delivery is one example.

Table 2: Additional Effective Methods

Peacock Hill Working Group (1991)	Fisher, Schumaker & Deshler (1995)	King-Sears & Cummings (1996)
• Systemic, data-based interventions • Continuous monitoring of progress • Provision of practice for new skills • Treatment matched to problem • Multi-component treatment • Programming for transfer and maintenance • Commitment to sustained intervention	• Peer tutoring • Cooperative learning • Organizers/study guides • Content enhancement • Curriculum revision • Strategies instruction	• Curriculum-based assessment • Cooperative learning • Self management • Class-wide peer tutoring • Strategy instruction • Direct instruction • Goal setting

Instruction. Methods, no matter how effective, must be delivered. Obviously if they are delivered by a teacher with limited training, inappropriate class sizes, few materials, and no instructional support the results will be different from those obtained by a highly trained teacher, with a reasonably sized class, plenty of materials, and trained teaching assistants.

If a teacher, or teaching assistant, must be trained in delivery in order for the methods in Tables 1 & 2 to work – how is "Best" instruction defined? That question has been well researched and the answer widely publicized (if not adopted). There are specific actions that effective teachers employ when delivering information, asking questions, using activities, and responding to the efforts of students. These actions are sometimes called "overlay practices. Overlay practices are actions which can be used for, or lain over, almost any method. For example, *signaling transitions between main ideas* is a good practice no matter what method is currently being used or, even, what ideas are being taught. Sikorski, Niemie, and Walberg (1996) present a clear list of these overlay practices in an article called "A Classroom Checkup". A similar list is provided by Price and Nelson (1999). In

addition, Ysseldyke and Christenson (1996) present an expanded version of the same content in the TIES-II, which is an assessment device that can be used to evaluate the effectiveness of teaching, class management, class support, class structure, curriculum, and other important aspects of the learning environment. These references draw their content from earlier work by Rosenshine, Brophy, Good, and others.

Instruction Summary

In our experience, an effective program for students with disabilities in a correctional setting should:

- include the methods and overlays previously discussed;
- be based on a functional and curriculum-based evaluation of the students' needs;
- be focused on specific and measurable outcomes;
- use methods which have been validated for the topics taught in the class;
- teach students *how to learn* as well as present the traditional school content;
- use teacher directed instruction including extensive explanation, demonstration, and *guided* practice;
- ensure active student engagement through the use of peer tutoring, cooperative learning, and/or a high frequency of objective specific teacher questions;
- emphasize strategic (rule governed) processes for solving academic and/or social problems;
- teach appropriate social skills instead of trying to control inappropriate social behaviors;
- include continuous monitoring of student progress; and
- follow Zigmond (1997) by being *urgent* because the time is short and relentless (which means we never give up)

Effective special education teachers and administrators realize that, because the students are behind, it is necessary to speed up the process of their learning. Therefore, it is necessary that: the intensity of instruction be high (none of this "Let's take the child at his own rate and not expect too much"); and, that the teacher never gives up (you'll know you are at risk of giving up on students if, when you look at Appendix B, you focus on early intervention and think, "See, by the time a kid gets to me, it's too late.")

Barriers

So why are programs for students with disabilities in correctional/juvenile justice settings "...often substandard..." (Leone, 1994, p. 43) or, to put it another way, why aren't Promising and Best practices routinely used in these settings? There are a variety of possible answers to these questions. In some cases the answers raise philosophical and sociological issues and in others the issues are pragmatic.

Barrier 1: View of Justice

At its very core the existence of all education within correctional/juvenile justice settings rests on beliefs and assumptions about crime, criminals, punishment, deterrence, the role of custodial institutions, and the duty of society.

A distinction has been drawn between "Retributive Justice" and "Restorative Justice" (Office of Juvenile Justice and Delinquency Prevention, 1997). The assumptions underlying each of these are drawn from Zephr (1990) and some of them are reproduced in Table 3. As you can see, the two approaches are very different, and one would expect that programs based on retributive orientation would not look like those based on a restorative orientation. Education in general seems to be aligned with the restorative approach from both a philosophical point of view (as illustrated by the assumptions in Table 3) and a pragmatic one. The pragmatic factor is that, in a strictly retributive system, there would be no education. Hopefully, all readers recognize the need to at least include the restorative assumptions in their thinking about special education.

Table 3
Adapted from Zephr (1990) and Office of Juvenile Justice and Delinquency Prevention (1997)

Retributive Justice	Restorative Justice
• Crime is an act against the state • Punishment is effective • The offender is defined by deficits • Focus is on establishing blame • Focus is on the offender's past behavior	• Crime is an act against another person • Punishment alone is not effective and can be disruptive • The offender is defined by capacity to make reparation • Focus is on problem solving • Emphasis is on the future

Barrier 2: View of Special Education

This barrier is directly related to the findings and purposes statements of IDEA. You might want to glance back at the finding of Part A, Sec 601(c) and the purpose wording of Part A, Sec 601(d). This wording has multiple implications but all are related to the view of people with disabilities. For example, finding (1) states that disabilities do not diminish one's right to participate. A person accepting this idea recognizes the intent of the law and avoids, or fights against, any practice that tends to marginalize or exclude wards with disabilities. For example, scheduling special education classes at the same time as vocational classes, or setting a minimal reading level for a culinary arts program simply because the director of that program gives reading assignments rather than lectures would not be acceptable practices.

Richardson (1994) reviewed the history of common schooling, delinquent schooling, and special education. One of his conclusions is that schools in the United States have a long history of "binding out" (i.e., removing) populations viewed as defective or unsavory. Therefore, having separate schools for delinquent or disabled students was fine, but to include those populations within public schools goes against the historical pattern. However, that is exactly what special education, with its emphasis on inclusion and mainstreaming, is doing today. After our long history of excluding students with disabilities, it is not surprising that some educators, even in correctional/juvenile justice settings, still find the requirement of special education to be at odds with their personal view of schooling. Which, like the issue of restorative commitment, would be a barrier to best practices at a profoundly fundamental level.

Barrier 3: Evaluation

Selecting A Target. In psychology there are different views of learning, and of the failure to learn. Even though a particular belief is no longer held by most, some individuals will still adhere to it. This sometimes seems to be the case among staff in correctional/juvenile justice settings. Take another look at Table 1 and the "not very effective" list. Notice that perceptual training, modality-based instruction, and psycholinguistic training are all listed. Each of these are based on psychological theories which explain learning failure in terms of defective, often sensory-based, processing components of individual students. Typically these defective processing components are associated with psycholinguistic functions (auditory short-term memory) and/or perceptual modalities (visual, kinesetic).

While popular throughout the 1960s, and into the 1970s, these theories are now viewed with skepticism. In part this skepticism has resulted from the failure of the theories to produce positive benefits within the classroom (as illustrated by their position on the Lloyd et al.., 1998 list). In other cases, the skepticism is based on failure to document the validity of the theories.

However, in spite of the fact that this view (which we will label "ability based") of learning has now been commonly rejected, it still appears popular in many correctional/juvenile justice settings. A review of evaluation reports from several institutions in different states revealed a remarkable adherence to the ability based model. It is almost as if correctional/juvenile justice education is the last stronghold of ability based psychometrics.

It is this orientation that leads evaluators to write things like: "Bruce has perceptual and motor skill weaknesses which affect his math and written language"; "Because of his depressed auditory scores, Bruce should be taught with predominately visual approaches"; or "Bruce qualifies for special education due to a processing deficit in auditory memory." The same orientation sometimes leads authors of IEPs to actually specify goals such as "Bruce will improve his auditory memory."

The ultimate ability construct is, of course, intelligence. It is adherence to the ability model (sometimes aggravated by a misunderstanding of regulatory requirements) that cause so many students referred and evaluated in correctional/juvenile justice settings to be given IQ tests. This would not be a problem if IQ tests were quick to administer, generally useful for programming, culturally fair, or inexpensive. But they aren't.

Testing for low intelligence, like testing for anything else, should take place when there is a suspicion that this particular student may have that particular problem. It should never be carried out on a routine basis or without presenting evidence to cause one to suspect limited intellect. Low achievement is not sufficient evidence. In addition, IQ testing shouldn't be routinely carried out on students presenting mixed evidence (i.e., low at reading but high in math), as the most likely explanation for such a student would be missing knowledge in reading. (In other words, if he has adequate intelligence to learn math, it can be assumed that he has adequate knowledge learn to read.)

If a problem like mental retardation is suspected as a cause of poor reading, (and according to the psychometric definition, only 2.5% of students should have IQ scores low enough to indicate retardation), then how can one explain the estimates that up to 30% of non-retarded youth have reading problems? When presented with a non-reader it would make more sense to give a reading test than to give an intelligence test. The probability that low intelligence is the source of the problem is too low (and even if the issue *is* low intelligence you will still need to give the reading test to find out what to teach). As long as the targets selected for evaluation are hypothetical, unalterable, and outside of the curriculum, the products of evaluation will have little utility.

Remember the Purpose. There are a couple of other ways evaluation practice can serve as a barrier to best-practice. One of these is to over-emphasize eligibility/entitlement decisions. Every evaluation should not have, as its purpose, justification of placement for, or exclusion from, special education. Besides, it is important to recall that a student is considered eligible only if the student: 1) has a disability; and b) *needs* special education. Not everyone who has a disability is eligible for special education. Therefore, equivalent evaluation emphasis should be placed on establishing need. This can only be done with measures which illustrate failure at important academic, vocational, and/or social skills. Such measures, because they summarize the student's position in the curriculum, can also have instructional implications (that is why curriculum-based evaluation keeps coming up in the best practices tables, while IQ tests, or measures of other hypothesized abilities, do not).

Selecting an Instrument. A final evaluation barrier is the previously mentioned preference of correctional/juvenile justice staff for the TABE. It is used to screen, to justify entitlement, to select objectives, and even to monitor progress. Of these purposes, screening is probably the only one for which the instrument qualifies because, like other general achievement measures, it summarizes performance by collecting an extremely broad range of items. Because the range of item difficulty is so great, approximately 90% of the items are either too hard or too easy for an individual student.

The preference for the TABE appears to be based on the availability of normative data from correctional/juvenile justice populations. But, logically such norms should be of little value to staff working in institutions. First, the staff doesn't need to find out if the ward acts like an incarcerated youth on the test. They already know he/she is incarcerated. Second, because the restorative goal should be to get the student back to the community, it makes more sense to compare him/her to people who are outside. Then it will be possible to track improvement toward the goal of success "outside of the wire."

In summary, the evaluation practices in many correctional/juvenile justice settings do not yield information of significance to teaching (there are some notable exceptions to this finding, particularly within school programs which use curriculum-based evaluation). This finding may be the result of barriers to more productive options. These barriers can include: adherence to nonproductive views of ability; emphasis on evaluation to determine entitlement, at the expense of defining a need and establishing objectives; and the preference for general achievement measures (such as the TABE or WRAT) over more curriculum related measures. Because of these problems the requirement that objectives follow logically from evaluation is often violated.

Barrier 4: Misunderstanding Special Education

Special education is not really a set of best practices. Nor is it a pile of paper work. There is nothing in Federal law that says special education teachers should take on the clerical duty of writing/typing out IEP and consent requests (many correctional facilities now have clerical staff at the meetings to take notes and produce a final version of the IEP). In fact, we believe special education isn't even the education of students with disabilities (plenty of general education teachers do that quite well.) We believe special education is an individualized, student-centered, problem-solving process and that it should develop a set of services to meet individual student needs. The failure to adhere to the requirements of this process can lead to the failure to educate appropriately eligible students, even though they are in classrooms with appropriately certified teachers and files of nicely typed and signed forms.

The ideas upon which this problem-solving model is based are that:

1) Individual attention is needed to design an appropriate educational plan to meet the individual needs of students;
2) Labeling the student does not give information about what or how to teach. In some locations labeling isn't even required. Decisions should always be based on the individual needs of the student.
3) The student's "problem" is not the presence of a disability, but some sort of skill deficit. The disability may have caused the problem, but thinking about the disability will not fix it. Educators' attention must be directed to missing skills and how they can be taught or how the student can be supported.
4) Because the problem may be multi-faceted, having representatives from different disciplines working on the problem is a good idea.
5) Someone should represent the child in the process. The obvious choice is the parent because (in most cases) the parent has a special knowledge and interest. If the parent can not participate in any way a surrogate can be appointed. But the surrogate can only fill the role of a parent if he or she has the time and information to develop a special knowledge and interest in the student. Also, in many cases, students should be representing themselves.
6) The decision making process should be informed by high quality evaluative information directly related to the problem.
7) The solution should be spelled out clearly with measurable objectives, descriptions of treatment, and schedules for review.

8) The plan should be followed, unless it doesn't work. If this happens, a new plan should be developed by repeating the original process for developing a plan.

There really is a fairly simple logic around this process, which, unfortunately, has often been lost amid the regulations and permission forms. Recently one of the authors was involved in a protracted discussion with a special education director in a juvenile facility. The discussion was about the way mental health and special education should integrate services and whether the time in mental health could be counted as special education service. There was also an issue of mental health staff participation in IEP meetings. During the discussion, the mental health representative was fairly quiet. Finally, the mental health representative was asked to explain a typical mental health plan. He said it was a plan, based on evaluation, that told who would work with the student, for how long, to what goal, and how the treatment would be carried out. The plan also specified a monitoring process.

Given the existence of these components, the author advised the group that from now on, when the IEP team thinks a student needs mental health services, the mental health plan simply be reviewed by the IEP team (which, of course, includes the parent) and then attached to the IEP. That seemed acceptable because the mental health plan - with no rules and regulations to define it - already had each of the components of an IEP.

Barrier 5: Need to Control Student Interactions

A review of the best practices in the earlier table shows that several require interaction between students. Peer tutoring and cooperative learning are the two clearest examples. It is easy to imagine that, for security/safety reasons, allowing student interaction in corrections could be problematic. However, the kinds of formal student interaction programs referred to in the Lloyd et al. (1998) list are not based on loosely defined and unsupervised student interactions. In fact, the roles of students are more clearly defined in such programs then in many typical classroom activities. In order for these programs to be effective, the level of supervision is high.

There are two likely ways to remove this barrier:

1) First learn the programs completely and then learn powerful sets of classroom management procedures (Sprick, Garrison, & Howard 1998). Then use the programs and the management techniques together. If some students can't handle a certain interaction approach, stop using it with them.

2) Acquire the ideas and skills needed to adapt the basic interaction programs without distorting their major strengths. Then accommodate students by changing the materials and/or processes to fit them. This could mean using smaller groups, putting oneself into a particular group, or even using written messages supplied by students who cannot be allowed in close proximity.

Conclusion

This monograph has identified best practices, common limitations, and barriers to the delivery of educational services to youth with disabilities in corrections and juvenile justice facilities. High-quality education programs have certainly been established in corrections and juvenile justice facilities, but not without significant leadership and effort by both educational and custodial staff. The task of implementing and maintaining these programs should be shared by personnel working in the correctional/juvenile justice facilities. The financial support and expertise of state department of education, juvenile justice personnel, and even the judiciary, must be focussed if the barriers to quality educational services are to be significantly reduced.

Far too often, the inertia common to bureaucratic processes and the limitation of scarce resources can only be overcome by outside intervention from the judiciary. The catalyst for change provided by judicial intervention has led to significant enhancement of educational resources in numerous jurisdictions.

APPENDIX A
GLOSSARY

Child with a Disability - In general means a child:

a) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, and
b) who, by reason thereof, needs special education and related services.

Continuum of Services - A full range of service models from all day individual attention to simply monitoring instruction in a general class.

Consent decree - An agreement worked out by the parties in a legal dispute. The agreement, which specifies an outcome similar to what might be expected after a whole trial, is not a judicial decision. However, it is "sanctioned" by a court.

Disabilities - Conditions of a person, which may, within certain environments, serve as a handicap by limiting performance and/or learning. The special education laws only recognize approximately a dozen disabilities.

Educational Service Agency (Local Educational Agency) - The term 'educational service agency' means a regional public multi-service agency:

a) authorized by State law to develop, manage, and provide services or programs to local educational agencies and;
b) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and
c) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

Entitlement - When entitled to receive special education, a student's educational services may be supplemented with additional resources paid for with Federal or State funds.

Free Appropriate Public Education - means special education and related services that:

a) have been provided at public expense, under public supervision and direction, and without charge;
b) meet the standards of the state educational agency;
c) include an appropriate preschool, elementary, or secondary school education in the State involved; and
d) are provided in conformity with the individualized education program required under section 614(d).

IDEA (Individuals with Disabilities Education Act) - PL 105-17 is the 1997 Amendment to IDEA. IDEA is the primary federal legislation defining the right to, and provision of, special education services for students with disabilities.

In Effect - No matter what the quality of a student's education, or their IEP, the existence of special education services will not be legally recognized until the IEP is "In effect." In order to be "In effect", the IEP must include all required elements and these elements must have been

developed through legally correct procedures. Therefore, it can not be argued that a student is receiving the same thing as special education without a properly developed IEP.

Inclusion - A type of service delivery in which instruction is provided within the general education classroom. Typically inclusion services are provided through collaboration and monitoring by a special education teacher. Inclusion is on the less restrictive end of the continuum of services.

Individualized Education Program (IEP) - The term 'individualized education program,' or IEP, means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

Perceptual Training - The technique of trying to improve a student's auditory or visual perception under the assumption that these are prerequisites to academic skills. The procedure is linked to an outdated mode of special education. Today it is believed that visual and auditory skills are learned as one learns other skills (such as reading), therefore one should simply teach and test reading. The issue is not that perception exists. It does. However, it should not be assessed and/or taught as if it is separate from the content being heard (letter sounds) or seen (written letters).

Pre-referral intervention - An attempt to help a student before the student is referred to special education. Many education agencies set up programs to try to help students prior to special education referral in order to hold down costs and to help students without subjecting them to the possible stigma of a disability label.

Psychotrophic Drugs - Medications prescribed and taken to treat psychological and/or behavioral conditions. They include mood elevators, tranquilizers, antidepressants, and psycho-stimulants.

Rules & Regulations - Federal, state, or local guidelines for implementing special education programs. These guidelines are based on interpretations of the Federal law and are frequently inconsistent from one location to another. This inconsistency, while troublesome, may or may not be a problem. It is assumed that special education programs must be tailored to different needs and localities.

Short term objectives - Behaviorally stated outcome statements. Two or more objectives should be included for each goal listed on an IEP. Meeting the objectives should have the effect of moving the student from his or her current level of performance to the goal.

Special Education - The term special education means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including:

a) instruction conducted in the classroom, in the home, in hospitals and institutions, and
b) instruction in physical education.

Transition Services - The term 'transition services" means a coordinated set of activities for a student with a disability that:

a) is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training,

integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

b) is based upon the individual student's needs, taking into account the student's preferences and interests; and

c) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Validity - Validity is a term used to describe the quality of a test. A test is considered valid if it is good for the purpose for which it is being given. However, in order to determine validity, the test must be used by people, and it is possible that tests, which are good for some people, may not be good for others.

APPENDIX B
A Checklist for Best Practices

It is our opinion that the following must be addressed to have an effective education program for students with disabilities:.

Eligibility and Assessment

1. All students in need of special education and related services must be identified, located, and evaluated within prescribed timelines.
2. All potentially eligible students with disabilities will have an assessment plan, and a request for permission to assess will be sent out within 15 days of arrival.
3. Assessment materials and procedures should be selected, administered, and interpreted in ways which allow adequate screening, the determination of program entitlement, and the development of a functional IEP.
4. Assessment procedures must be tailored to the purpose of the evaluation, the referral, needs of the students, and the curriculum.
5. If the purpose of the evaluation is to develop a functional IEP, testing procedures must be employed which both reflect what teachers teach and are sensitive to instruction.
6. The evaluation procedures used when developing the IEP need not always take the form of standardized/published tests, but may include the careful analysis of classroom work and assignments.
7. Curriculum-based evaluation and measurement procedures should be employed, not only to select objectives, but also to monitor student improvement.

Special Education Services

8. Within 50 days of receipt of consent, eligible students should have an appropriately developed IEP and should be receiving services.
9. A complete continuum of educational services must be available for entitled students.
10. All students entering with current IEPs should have that IEP instantly put into practice.
11. All timelines (e.g., annual and triennial reviews) and due process procedures should be employed according to Federal and state law.
12. The program must have administrative commitment and support.
13. The number and quality of special education staff must be adequate to meet student needs..
14. A system of ongoing personnel development must be provided to train all educational and related services staff in the recognition and appropriate treatment of special needs students.
15. It should never be true that, as a matter of institutional policy, students on a particular living unit (e.g., orientation or lock down), or in a particular program (e.g., boot camp or vocational), do not receive special education services.
16. Parent surrogates should meet the student prior to the meeting and be allowed to review files.
17. There should be no breaks in services due to staff absences/vacancies or conflicting staff duties (including vacations).
18. There should be adequate justification and documentation for all acts of ward de-certification and/or re-certification.
19. No special education students can be placed on waiting lists.

Individualized Education Programs

20. All students, regardless of living unit or lock-down status, must receive all appropriate IEP specified services.

21. The services defined in an IEP should not be selected on the basis of the disability category (e.g., automatically given only to LD students). A student who is found to be disabled in any category is entitled to services in all areas of need. (For example, it is not necessary to decertify or re-certify a student with an emotional disability who no longer needs counseling but continues to need reading.)
22. At least one general education teacher, along with other specified participants, should be present at IEP meetings.
23. IEPs must include: statements regarding the proportion of time the student will participate in regular programming; transition plans; vocational objectives; duration of service statements; multiple short term objectives for each goal; and evidence that IEPs were developed through an appropriate process.
24. IEPs should adequately describe the instructional interventions which will be used to meet objectives.
25. IEPs must specify real schedules for meeting objectives (a standard one-year schedule for the review of all "short term" objectives is unacceptable).
26. All goals and objectives must be written in measurable items.
27. If the hours of service are reduced, or the format of service delivery is significantly changed, this will be preceded by an appropriate IEP meeting and evidence will be provided to document that the change is justified.
28. Objectives should specify important and ambitious levels of improvement.
29. Objectives in the domain of social-emotional behavior, transition, and vocational education should be included when required and/or needed.
30. Objectives should complement the student's individual needs as illustrated by alignment of objectives with the performance levels reported in assessments.
31. The decision to place a student into a particular program option must **not** be made until **after** the IEP has been developed.

Instruction

32. In order to provide adequate opportunities for integrated experiences, full and consistent class schedules must be maintained within the regular education program.
33. Appropriate services must be delivered by qualified staff to all eligible wards.

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